

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION NO. 9078 OF 1995

Coram : Ms R.M. Doshit, J.

5th July, 1996

Oral Order :

Heard Mr H.K. Rathod for the petitioner and Mr I.M. Pandya for the respondents.

2. The petitioner was serving as a Junior Clerk in the respondent No. 1 Corporation. He was promoted to the post of Junior Assistant under order dated 19.1.1991. The said promotion was temporary and he was liable to be reverted to the substantive post to which he is entitled. The petitioner was thereafter reverted to the substantive post of Junior Clerk by an order dated 16.3.1995. It is this order of 16.3.1995 which is the subject matter of challenge before this Court. Learned Advocate Mr Rathod appearing for the petitioner has submitted that this order is vitiated as hearing has not been granted to the petitioner before making this order. This order is, therefore, arbitrary, illegal and requires to be quashed and set aside.

3. In response to the notice issued by this Court, the Corporation has appeared and filed an affidavit-in-reply to the petition through its officer. It has been clarified in the said affidavit that the petitioner was granted temporary promotion subject to his being selected by the Selection Committee. The meeting of the Selection Committee was convened on 1.11.1994. The said meeting having considered the case of the petitioner for promotion to the post of Junior Assistant alongwith many other Junior Clerks, did not recommend the petitioner for promotion. Since the petitioner was not found suitable for the promotional post, the petitioner was reverted to the substantive post of Junior Clerk.

3. The petitioner was promoted on temporary basis irrespective of his being selected by the Selection Committee. Thus, the petitioner did not acquire any right to promotional post due to this temporary promotion. The petitioner subsequently was not found to be suitable for the promotional post and therefore, he was reverted to his substantive post. Thus, giving promotion or reverting to the substantive post is purely administrative function and the petitioner was not required to be heard before he was reverted to the

substantive post. The petitioner has made a grievance that some of the Junior Clerks who are junior to him were retained on the promotional post while the petitioner was reverted. In this type of cases, the principle "last come first go" is not attracted. The persons who are found suitable by the Selection Committee are required to be retained on the promotional post while those who are not found suitable are required to be reverted to their substantive post. Learned Advocate Mr Pandya appearing for the respondent Corporation has produced a copy of Office order dated 4.2.1996 and has submitted that under the said order the petitioner has once again been promoted as a Junior Assistant. Thus, the petitioner's grievance that his case for promotion is not being considered is substantially redressed.

4. In the aforesaid circumstances, no relief can be granted to the petitioner. This petition is, therefore, rejected. Notice discharged.

Sd/-

5/7/1996 (Ms R.M. Doshit, J.)